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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,319	07/05/2001	Jacobus Eliza Hazenbroek	11954-1910	2142

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EXAMINER

ALIMENTI, SUSAN C

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 10/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/899,319

Applicant(s)

HAZENBROEK ET AL.

Examin r

Susan C. Alimenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15 and 17-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-13, 17-29, 31, and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 6, the phrase “wherein there are means...for rotating the rollers” is awkward and confusing.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Janessen et al. (USPN 6,142,893).

Janessen et al. (hereafter Janessen) discloses a device for processing and skinning poultry carcasses that includes all the limitations set forth in claims 24-26. The device comprises a conveyor and supports (6) for moving and retaining the carcass along the skinning process. It also includes skin-gripping means comprising two meshed rollers (152), rotateable in opposite directions for pulling the skin off in a manner that is perpendicular to the supply direction. It is noted that the “skin gripping line” as cited in claim 25 is defined as the imaginary line created by

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the path that the removed skin travels as it passes through the gripping means, which is transverse or perpendicular to the supply direction of the carcass indicated by arrow 142 in Figures 13a-13c.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 7-11, 13, 17-21, 23, 26, 27, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janessen.

Janessen discloses a device and method for skinning poultry carcasses that is basically the same as that which is cited in the claims listed above except the skinning means does not move in relation to the carcass. Janessen's skinning device instead moves the carcass itself while the gripping means remain stationary. In Figures 13a-13c Janessen's skinning process is illustrated, and it can be seen that the carcass disposed on a support (6) moves laterally and horizontally. It would have been obvious to one in the art at the time the invention was made to modify Janessen's device and method by making the skinning means mobile and keeping the carcass stationary in order to achieve better control and a more advantageous angle for contact with the skin.

7. Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janessen as applied to claim 1 above.

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Janessen, as modified, discloses a device that includes nearly all the limitations cited in claims 1-11, 13, 17, 19-22 and 27, except the skinning means is not shown with an arm support disposed perpendicular to the supply direction. Janessen does not specify how the skinning means is mounted to the main body of the machine, however upon examining Figures 4 and 4a, it can be seen that the carcass travels on along path (5) and then proceeds through stations 10-30. The processing installations at stations are mounted on arms (44, 52, 56) perpendicular to the supply direction (5). It would have been obvious to one in the art at the time the invention was made to also mount the skinning means to Janessen's machine on an arm in a similar manner.

8. Claims 12, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janessen, as applied to claims 1, 7, 10, and 11 above, and further in view of Harben, Jr. (USPN 3,714,682).

The device disclosed by Janessen, as modified, includes all the limitations set forth in claims 1, 7, and 10-12 except one of the rollers does not have only a middle section that has a corrugated surface, and the corrugations are not planar. Harben, Jr. shows a skin removing machine in the same field of endeavor in Figures 1 and 2. With regard to claim 12, Harben teaches the use of one roller (50) in a set, having only a middle portion that has a corrugated or serrated surface. It would have been obvious to one in the art at the time the invention was made to modify Janessen's device with Harben, Jr.'s roller in order provide a more precise contact with a certain area of the carcass.

Regarding claim 28, Harben further shows the use of a planar tooth engagement of the skin or oil gland. It is noted that a planar tooth arrangement is known in the art as an alternate equivalent to the helical tooth arrangement used by Janessen. Therefore because these two types

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of meshed teeth were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a helical tooth arrangement with a planar tooth arrangement.

Furthermore, with regard to claim 29 it can be assumed that the meshing teeth of the two mating rollers in Janessen's apparatus do not fully engage one another since in operation the poultry skin being removed is disposed between the two rollers preventing said rollers from fully engaging.

#### ***Allowable Subject Matter***

9. Claims 15 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record failed to show a discharge means as described in claims 15 and 30. It also fails to show a connection between roller movement and perpendicular movement of a skinning means as cited in claim 16.

#### ***Response to Arguments***

11. Applicant's arguments filed 09 August 2002 have been fully considered but they are not persuasive. Applicant argues that the basis of the rejection of claims 24-26 is unsubstantiated because Janessen does not disclose a discharge means and because the gripping means are not parallel to the supply direction. The Examiner respectfully disagrees and points out that claim 24 positively claims a "discharge means for ejecting the skin from the skin gripping means" and

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does not further specify this function. Janessen's discharge means is defined as a gravitational force pulling the removed skin from the gripping means 148, 150, as seen in Figure 13b, forcing said skin to be ejected from the rollers and to fall to the floor. Claim 25 specifically sites that a "skin gripping line" be perpendicular to the supply direction. As explained in the aforesaid rejection, the skin gripping line is defined as the imaginary line created by the path that the removed skin travels as it passes through the gripping means, which is transverse or perpendicular to the supply direction of the carcass indicated by arrow 142 in Figures 13a-13c.

Amended claim 26 has been added to the 35 U.S.C. 103(a) obviousness type rejection, which ascertains that it would have been obvious to modify Janessen's apparatus by keeping the carcass stationary while the gripping means maneuver around the carcass to remove the skin. Regarding claim 5, it is considered obvious that the mobile skin gripping means would be capable of movement in all planes. The limitation of claim 17, that the skin gripping means is mounted on a rail, is also considered obvious since Janessen does not show how the gripping means are mounted, however he does show that the carcass is mounted for movement on rail 4 which teaches a mounting technique.

With regard to claims 19-21, Applicant further argues that Janessen does not teach removal of the skin in a direction that is "substantially perpendicular to the carcass at the location where the skin becomes detached from the carcass" (claim 19). The Examiner respectfully disagrees since when the skin is pulled off the carcass it is pulled between the two helical rollers at a substantially right angle. If one were to draw a tangential plane at the surface of the carcass where the skin is pulled off, it would be obvious that the skin is pulled off in a perpendicular direction with respect to said tangential plane and therefore the carcass. Regarding Applicant's

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argument specifically of claim 21, that skin is not "slid from the rollers" (claim 21), it has been explained above that a gravitational force is capable of sliding the removed skin off the rollers.

Applicant further argues that Janessen does not anticipate the present invention since Applicant feels the rollers are not perpendicular to the supply direction as cited in several claims. This limitation is quite broad and does not specify exactly how or which part of the rollers are perpendicular to the supply direction. It can be seen in Figure 13c that the width of the rollers 152 is perpendicular to the supply direction, thus anticipating the subject matter set forth by the Applicant.

Claims 6 and 22 site the limitation that the gripping means is mounted to an arm that is perpendicular to the supply direction. Applicant argues that since the arms disclosed by Janessen are not movable this subject matter is not anticipated, however considering the aforesaid discussion modifying Janessen the arms are implicitly moveable.

With regard to the Applicant's argument of the rejection of claim 12, Harben Jr. does disclose an apparatus that removes the oil glands from poultry, however oil glands, even on fowl, are considered part of the epidermis, therefore Harben Jr. is relevant prior art.

Finally it seems that the Applicant has attempted to incorporate the allowable subject matter of claim 16 into claim 31, however claim 31, as written, does not contain allowable subject matter.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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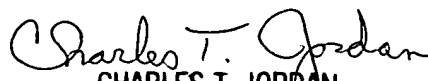
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is (703)306-0360. The examiner can normally be reached on 8am-6pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703) 306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-5771.

SCA  
October 7, 2002

  
CHARLES T. JORDAN  
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